

ORIGINAL

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1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MASSACHUSETTS

3 NO. 03 CV 12307 RGS

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5 JOSEPH CHRISTOFORO,
6 Plaintiff

7 -VS-

8 JULIO LUPO, FRANK G. COUSINS,
9 JR., INDIVIDUALLY AND IN HIS
CAPACITY AS ESSEX COUNTY SHERIFF,
and CERTAIN UNKNOWN INDIVIDUALS,
10 Defendants
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12
13 DEPOSITION OF TIMOTHY P. MCGUIRE

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15 Deposition taken at the law offices
16 of Merrick, Louison & Costello, 67 Batterymarch
17 Street, Boston, Massachusetts, on Thursday, May
18 19, 2005, commencing at 1:35 p.m.
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21

22 DUNN & GOUDREAU COURT REPORTING SERVICE, INC.
23 ONE STATE STREET, BOSTON, MASSACHUSETTS 02109
24 617-742-6900

1 A (Complies.)

2 Q After having read that, does that refresh your
3 memory as to what Ms. Lawrence reported as to the
4 type of contact that occurred?

5 A Yes.

6 Q What did Ms. Lawrence report to you?

7 A She said Julio had flicked him in the back of the
8 year.

9 Q Is that more consistent with the position Julio
10 took than the position Mr. Christoforo took?

11 MR. MCCORMICK: Objection.

12 Q You can answer.

13 A She's consistent with Julio, yes.

14 Q In your conclusion, you didn't reach a conclusion
15 as to whether or not Mr. Christoforo exceeded the
16 reasonable exercise of force in this matter, did
17 you?

18 A Say that again, I don't understand.

19 Q In reaching your conclusion, did you reach the
20 ultimate conclusion that Mr. Christoforo exceeded
21 what would be considered a reasonable use of force
22 for the circumstances?

23 MR. PFAFF: Objection. You mean Lupo?

24 Q Strike that, Mr. Lupo.

1 A Yes, I did.

2 Q You did what?

3 A I believe that he exceeded any use of force.

4 Q Do you know the reason or the reasons behind his
5 use of force at the time?

6 A No, I don't.

7 Q Would it be fair to say that it's important to
8 know the reasons why force was exerted to come to
9 the conclusion whether or not it was appropriate
10 or excessive?

11 A Any physical contact with an inmate unprovoked
12 would be inappropriate.

13 Q Do you know whether or not the contact was
14 provoked that day?

15 A I believe it was not provoked.

16 Q What do you base that on?

17 A That the inmate did not assault Julio Lupo.

18 Q Do you know whether there was any other type of
19 provocation that day?

20 A No, I don't.

21 Q Do you know why Mr. Lupo made physical contact
22 with Mr. Christoforo that day?

23 A No, I don't.

24 Q Do you know what Mr. Christoforo's conduct was